

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

UNITED STATES OF AMERICA

v.

GEROME ANTHONY BURTON

:
:
:
:
:

CRIMINAL NO. 95-301

MEMORANDUM ORDER

Defense counsel filed a Motion for Continuance of Trial in the above case which is unopposed by the government. Trial of this case has long been scheduled to commence on Monday, August 11, 1997. The motion for a continuance was presented to the court on Friday, August 8, 1997 at 3:51 p.m.

The court convened a telephone conference with counsel to inquire into the precise meaning of some of the assertions in the motion and to better assess the need for the requested four week continuance which would require an "interest of justice" extension of the Speedy Trial Act deadline. The court ascertained that the statement about "disruption in the attorney-client relationship" was merely a cryptic reference to the injection of jailhouse lawyers at FCI Fairton, where defendant is housed, into his case and not to any deterioration in relations between defendant and his trial counsel. This has resulted in a difference of opinion between defendant and counsel as to the wisdom of proceeding to trial or accepting the government's plea offer which defendant had earlier agreed to. Counsel represents, however, that there is no impediment to his proceeding to trial on Monday and providing defendant with effective representation. He merely wished to have more time to attempt to persuade

defendant to consummate the plea agreement.

It appears that counsel has had a reasonable opportunity to advise defendant on his recent decision to change course. To provide still the additional time requested by counsel to continue such an effort does not fairly justify an extension of the Speedy Trial Act deadline.

This case is very simple and straightforward. The facts and evidence are well known to defendant and counsel. The decision to plead guilty or proceed to trial is ultimately defendant's. Many criminal cases would never be disposed of timely if extensions were granted every time counsel wished he had additional time to persuade a defendant of the risks of rejecting a plea offer and proceeding to trial.

Because the prosecutor represents that he has an argument before the Third Circuit Court of Appeals on Monday morning at 9:30 a.m., however, the court will continue commencement of trial to 2:00 p.m. on August 11, 1997. This will also provide defense counsel with a final opportunity to reiterate his advice to his client.

ACCORDINGLY, this day of August, 1997, **IT IS HEREBY ORDERED** that the Motion for Continuance is **DENIED** and trial of the above case will commence at 2:00 p.m. on Monday, August 11, 1997 in Courtroom 9-B, Ninth Floor, U.S. Courthouse, 601 Market Street, Philadelphia.

BY THE COURT:

JAY C. WALDMAN, J.